

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

) File No. 17-2004-162750

CARLOS ESTIANDAN, M.D.)

Physician's and Surgeon's)
Certificate No. A38326)

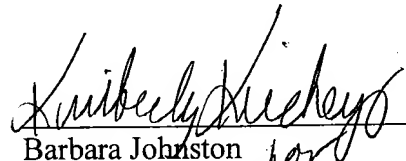
Respondent.)
_____)

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California as its Decision in the above entitled matter.

This Decision shall become effective at **5:00 p.m. on** September 9, 2009.

IT IS SO ORDERED September 2, 2009.



Barbara Johnston
Executive Director

1 EDMUND G. BROWN JR.
Attorney General of California
2 PAUL C. AMENT
Supervising Deputy Attorney General
3 JOHN E. RITTMAYER
Deputy Attorney General
4 State Bar No. 67291
300 So. Spring Street, Suite 1702
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Attorneys for Complainant

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 **CARLOS ESTIANDAN, M.D.**

12 **4864 Santa Monica Boulevard**
13 **Los Angeles, California, 90029**
14 **Physician's and Surgeon's Certificate No.**
A38326

15 Respondent.

Case No. 17-2004-162750

OAH No. 2009020501

STIPULATED SURRENDER OF
LICENSE AND ORDER

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to this
18 proceeding that the following matters are true:

19 **PARTIES**

20 1. Barbara Johnston (Complainant) is the Executive Director of the Medical Board of
21 California (Board). She brought this action solely in her official capacity and is represented in
22 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by John E.
23 Rittmayer, Deputy Attorney General.

24 2. Carlos Estiandan, M.D. (Respondent) is represented in this proceeding by attorney
25 Armand Tinkerian whose address is 3500 West Olive Avenue, Suite 300, Burbank, California
26 91505.

27 3. On or about April 19, 1982, the Board issued Physician's and Surgeon's Certificate
28 No. A38326 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect

1 at all times relevant to the charges brought in Accusation No. 17-2004-162750 and will expire on
2 January 31, 2010, unless renewed.

3 JURISDICTION

4 4. Accusation No. 17-2004-162750 was filed before the Board and is currently pending
5 against Respondent. The Accusation and all other statutorily required documents were properly
6 served on Respondent on February 10, 2009. Respondent timely filed his Notice of Defense
7 contesting the Accusation. A copy of Accusation No. 17-2004-162750 is attached as exhibit A
8 and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and understands the
11 charges and allegations in Accusation No. 17-2004-162750. Respondent also has carefully read,
12 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License
13 and Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
16 his own expense; the right to confront and cross-examine the witnesses against him; the right to
17 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
18 the attendance of witnesses and the production of documents; the right to reconsideration and
19 court review of an adverse decision; and all other rights accorded by the California
20 Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 8. Respondent admits that Complainant could establish a prima facie case for the
25 allegations in all the Causes for Discipline in the Accusation. Respondent further agrees that if he
26 ever petitions for reinstatement of his Physician's and Surgeon's Certificate or applies in the
27 future for a Physician's and Surgeon's Certificate, all of the charges and allegations contained in
28 the Causes for Discipline subject to this subparagraph shall be deemed true, correct and fully

1 admitted by Respondent for purposes of that proceeding or any other licensing proceeding
2 involving Respondent in the State of California.

3 9. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
4 discipline and he agrees to be bound by the Medical Board of California's imposition of discipline
5 as set forth in the Disciplinary Order below.

6 CONTINGENCY

7 10. This stipulation shall be subject to approval by the Board. Respondent understands
8 and agrees that counsel for Complainant and the staff of the Board may communicate directly
9 with the Board regarding this stipulation and surrender, without notice to or participation by
10 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
11 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
12 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
13 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
14 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
15 be disqualified from further action by having considered this matter.

16 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of
17 License and Order, including facsimile signatures thereto, shall have the same force and effect as
18 the originals.

19 12. In consideration of the foregoing admissions and stipulations, the parties agree that
20 the Board may, without further notice or formal proceeding, issue and enter the following Order:

21 ORDER

22
23 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A38326, issued
24 to Respondent Carlos Estiandan, M.D. is surrendered and that surrender is accepted by the
25 Medical Board of California.

26 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the
27 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
28 against Respondent. This stipulation constitutes a record of the discipline and shall become a part

1 of Respondent's license history with the Board.

2 2. Respondent shall lose all rights and privileges as a Physician and Surgeon in
3 California as of the effective date of the Board's Decision and Order.

4 3 Respondent shall cause to be delivered to the Board both his wall license certificate
5 and, if one was issued, pocket license on or before the effective date of the Decision and Order.

6 4. Respondent fully understands and agrees that if he ever files an application for
7 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
8 petition for reinstatement. Respondent must comply with all the laws, regulations and procedures
9 for reinstatement of a revoked license in effect at the time the petition is filed, and all of the
10 charges and allegations contained in Accusation No. 17-2004-162750 shall be deemed to be true,
11 correct and admitted by Respondent when the Board determines whether to grant or deny the
12 petition.

13 5. Should Respondent ever apply or reapply for a new license or certification, or petition
14 for reinstatement of a license, by any other health care licensing agency in the State of California,
15 all of the charges and allegations contained in Accusation, No. 17-2004-162750 shall be deemed
16 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
17 other proceeding seeking to deny or restrict licensure.

18 ACCEPTANCE


19 I have carefully read the above Stipulated Surrender of License and Order and have fully
20 discussed it with my attorney, Armand Tinkerian. I understand the stipulation and the effect it
21 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of
22 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
23 Decision and Order of the Board.

24
25 DATED: AUG. 17, 2009

Carlos Estiandan
CARLOS ESTIANDAN, M.D. Respondent

1 I have read and fully discussed with Respondent Carlos Estiandan, M.D. the terms and
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4 DATED: 08/17/2009

5 
ARMAND TINKERIAN
Attorney for Respondent

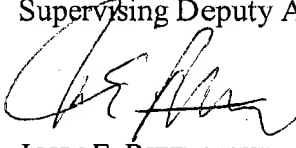
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7 ENDORSEMENT

8 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
9 for consideration by the Medical Board of California of the Department of Consumer Affairs.

10 Dated: August 17, 2009

Respectfully Submitted,

11 EDMUND G. BROWN JR.
12 Attorney General of California
13 PAUL C. AMENT
14 Supervising Deputy Attorney General

15 
JOHN E. RITTMAYER
16 Deputy Attorney General
17 Attorneys for Complainant

18 LA2008503570
19 Stipulation.rtf
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EXHIBIT A

1 EDMUND G. BROWN JR., Attorney General
2 of the State of California
3 PAUL C. AMENT
4 Supervising Deputy Attorney General
5 JOHN E. RITTMAYER, State Bar No. 67291
6 Deputy Attorney General
7 300 So. Spring Street, Suite 1702
8 Los Angeles, CA 90013
9 Telephone: (213) 897-7485
10 Facsimile: (213) 897-9395

11 Attorneys for Complainant

12 **BEFORE THE**
13 **MEDICAL BOARD OF CALIFORNIA**
14 **DEPARTMENT OF CONSUMER AFFAIRS**
15 **STATE OF CALIFORNIA**

16 In the Matter of the Accusation Against:

17 CARLOS ESTIANDAN, M.D.

18 4864 Santa Monica Boulevard
19 Los Angeles, California 90029
20 Physician's and Surgeon's Certificate No. A38326

21 Respondent.

Case No. 17-2004-162750

ACCUSATION

22 Complainant alleges:

PARTIES

23 1. Barbara Johnston (complainant) brings this Accusation solely in her
24 official capacity as the Executive Director of the Medical Board of California, Department of
25 Consumer Affairs (Board).

26 2. On or about April 19, 1982, the Medical Board of California issued
27 Physician's and Surgeon's Certificate Number A38326 to Carlos Estiandan, M.D. (respondent).
28 The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
charges brought herein and will expire on January 31, 2010, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the
following laws. All section references are to the Business and Professions Code unless otherwise
indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO February 10, 2009
BY Valerie Moran ANALYST

1 under the Medical Practice Act may have his or her license revoked, suspended for a period not
2 to exceed one year, placed on probation and required to pay the costs of probation monitoring, or
3 such other action taken in relation to discipline as the Division¹ deems proper.

4 5. Section 2234 of the Code states:

5 "The Division of Medical Quality shall take action against any licensee who is
6 charged with unprofessional conduct. In addition to other provisions of this article,
7 unprofessional conduct includes, but is not limited to, the following:

8 "(a) Violating or attempting to violate, directly or indirectly, assisting in or
9 abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5,
10 the Medical Practice Act].

11 "(b) Gross negligence.

12 "(c) Repeated negligent acts. To be repeated, there must be two or more
13 negligent acts or omissions. An initial negligent act or omission followed by a separate
14 and distinct departure from the applicable standard of care shall constitute repeated
15 negligent acts.

16 "(1) An initial negligent diagnosis followed by an act or omission medically
17 appropriate for that negligent diagnosis of the patient shall constitute a single negligent
18 act.

19 "(2) When the standard of care requires a change in the diagnosis, act, or
20 omission that constitutes the negligent act described in paragraph (1), including, but not
21 limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's
22 conduct departs from the applicable standard of care, each departure constitutes a separate
23 and distinct breach of the standard of care.

24

25 1. California Business and Professions Code section 2002, as amended and effective
26 January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in
27 the State Medical Practice Act (Cal. Bus. & Prof. Code, §§ 2000, et seq.) means the "Medical
28 Board of California," and references to the "Division of Medical Quality" and "Division of
Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

1 “(d) Incompetence.

2 “(e) The commission of any act involving dishonesty or corruption which is
3 substantially related to the qualifications, functions, or duties of a physician and surgeon.

4 “(f) Any action or conduct which would have warranted the denial of a
5 certificate.”

6 6. Section 2238 of the Code states:

7 “A violation of any federal statute or federal regulation or any of the statutes or
8 regulations of this state regulating dangerous drugs or controlled substances constitutes
9 unprofessional conduct.”

10 7. Prior to January 1, 2007, Section 2241 of the Code stated:

11 “Unless otherwise provided by this section, the prescribing, selling, furnishing,
12 giving away, or administering or offering to prescribe, sell, furnish, give away, or
13 administer any of the drugs or compounds mentioned in Section 2239 to an addict or
14 habitué constitutes unprofessional conduct.

15 “If the drugs or compounds are administered or applied by a licensed physician
16 and surgeon or by a registered nurse acting under his or her instruction and supervision,
17 this section shall not apply to any of the following cases:

18 “(a) Emergency treatment of a patient whose addiction is complicated by the
19 presence of incurable disease, serious accident or injury, or the infirmities attendant upon
20 age.

21 “(b). Treatment of addicts or habitués in state licensed institutions where the
22 patient is kept under restraint and control, or in city or county jails or state prisons.

23 “(c) Treatment of addicts as provided for by Section 11217.5 of the Health and
24 Safety Code.”

25 8. In 2006 (effective January 1, 2007) the Legislature amended Section 2241
26 of the Code to state:

27 “(a) A physician and surgeon may prescribe, dispense, or administer prescription
28 drugs, including prescription controlled substances, to an addict under his or her

1 treatment for a purpose other than maintenance on, or detoxification from, prescription
2 drugs or controlled substances.

3 “(b) A physician and surgeon may prescribe, dispense, or administer prescription
4 drugs or prescription controlled substances to an addict for purposes of maintenance on,
5 or detoxification from, prescription drugs or controlled substances only as set forth in
6 subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and 11220 of the
7 Health and Safety Code. Nothing in this subdivision shall authorize a physician and
8 surgeon to prescribe, dispense, or administer dangerous drugs or controlled substances to
9 a person he or she knows or reasonably believes is using or will use the drugs or
10 substances for a nonmedical purpose.

11 “(c) Notwithstanding subdivision (a), prescription drugs or controlled substances
12 may also be administered or applied by a physician and surgeon, or by a registered nurse
13 acting under his or her instruction and supervision, under the following circumstances:

14 “(1) Emergency treatment of a patient whose addiction is complicated by the
15 presence of incurable disease, acute accident, illness, or injury, or the infirmities attendant
16 upon age.

17 “(2) Treatment of addicts in state-licensed institutions where the patient is kept
18 under restraint and control, or in city or county jails or state prisons.

19 “(3) Treatment of addicts as provided for by Section 11217.5 of the Health and
20 Safety Code.

21 “(d)(1) For purposes of this section and Section 2241.5, addict means a person
22 whose actions are characterized by craving in combination with one or more of the
23 following:

24 “(A) Impaired control over drug use.

25 “(B) Compulsive use.

26 “(C) Continued use despite harm.

27 “(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is
28 primarily due to the inadequate control of pain is not an addict within the meaning of this

1 section or Section 2241.5.”

2 9. Section 2241.5 of the Code states:

3 “(a) A physician and surgeon may prescribe for, or dispense or administer to, a
4 person under his or her treatment for a medical condition dangerous drugs or prescription
5 controlled substances for the treatment of pain or a condition causing pain, including, but
6 not limited to, intractable pain.

7 “(b) No physician and surgeon shall be subject to disciplinary action for
8 prescribing, dispensing, or administering dangerous drugs or prescription controlled
9 substances in accordance with this section.

10 “(c) This section shall not affect the power of the board to take any action
11 described in Section 2227 against a physician and surgeon who does any of the following:

12 “(1) Violates subdivision (b), (c), or (d) of Section 2234 regarding gross
13 negligence, repeated negligent acts, or incompetence.

14 “(2) Violates Section 2241 regarding treatment of an addict.

15 “(3) Violates Section 2242 regarding performing an appropriate prior examination
16 and the existence of a medical indication for prescribing, dispensing, or furnishing
17 dangerous drugs.

18 “(4) Violates Section 2242.1 regarding prescribing on the Internet.

19 “(5) Fails to keep complete and accurate records of purchases and disposals of
20 substances listed in the California Uniform Controlled Substances Act (Division 10
21 (commencing with Section 11000) of the Health and Safety Code) or controlled
22 substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control
23 Act of 1970 (21 U.S.C. § 801 et seq.), or pursuant to the federal Comprehensive Drug
24 Abuse Prevention and Control Act of 1970. A physician and surgeon shall keep records
25 of his or her purchases and disposals of these controlled substances or dangerous drugs,
26 including the date of purchase, the date and records of the sale or disposal of the drugs by
27 the physician and surgeon, the name and address of the person receiving the drugs, and
28 the reason for the disposal or the dispensing of the drugs to the person, and shall

1 otherwise comply with all state record keeping requirements for controlled substances.

2 “(6) Writes false or fictitious prescriptions for controlled substances listed in the
3 California Uniform Controlled Substances Act or scheduled in the federal Comprehensive
4 Drug Abuse Prevention and Control Act of 1970.

5 “(7) Prescribes, administers, or dispenses in violation of this chapter, or in
6 violation of Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with
7 Section 11210) of Division 10 of the Health and Safety Code.

8 “(d) A physician and surgeon shall exercise reasonable care in determining
9 whether a particular patient or condition, or the complexity of a patient's treatment,
10 including, but not limited to, a current or recent pattern of drug abuse, requires
11 consultation with, or referral to, a more qualified specialist.

12 “(e) Nothing in this section shall prohibit the governing body of a hospital from
13 taking disciplinary actions against a physician and surgeon pursuant to Sections 809.05,
14 809.4, and 809.5.”

15 10. Section 2242 of the Code states in part:

16 “(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section
17 4022 without an appropriate prior examination and a medical indication, constitutes
18 unprofessional conduct.

19 “...”

20 11. Section 2266 of the Code states: “The failure of a physician and surgeon to
21 maintain adequate and accurate records relating to the provision of services to their patients
22 constitutes unprofessional conduct.”

23 12. Section 725 of the Code states: “Repeated acts of clearly excessive
24 prescribing, furnishing, dispensing or administering of drugs or treatment, repeated acts of clearly
25 excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or
26 treatment facilities as determined by the standard of the community of licensees is unprofessional
27 conduct for a physician and surgeon. . .”

28 13. Health and Safety Code section 11153 states:

1 “A prescription for a controlled substance shall only be issued for a legitimate
2 medical purpose by an individual practitioner acting in the usual course of his or her
3 professional practice. . . .Except as authorized by this division, the following are not legal
4 prescriptions: (1) an order purporting to be a prescription which is issued not in the usual
5 course of professional treatment or in legitimate and authorized research; or (2) an order
6 for an addict or habitual user of controlled substances, which is issued not in the course of
7 professional treatment or as part of an authorized narcotic treatment program, for the
8 purpose of providing the user with controlled substances, sufficient to keep him or her
9 comfortable by maintaining customary use.”

10 14. Health and Safety Code section 11156 provides in part that:

11 “(a) Except as provided in Section 2241 of the Business and Professions Code, no
12 person shall prescribe for, or administer, or dispense a controlled substance to, an addict,
13 or to any person representing himself or herself as such, except as permitted by this division.

14 “(b) (1) For purposes of this section, addict means a person whose actions are
15 characterized by craving in combination with one or more of the following:

16 (A) Impaired control over drug use.

17 (B) Compulsive use.

18 (C) Continued use despite harm.

19 “...”

20 15. At all times material hereto, Penal Code section 11161 provided that:

21 “Notwithstanding Section 11160, the following shall apply to every physician or surgeon
22 who has under his or her charge or care any person described in subdivision (a) of Section
23 11160: (a) The physician or surgeon shall make a report in accordance with subdivision
24 (b) of Section 11160 to a local law enforcement agency.”

25 16. At all times material hereto, Penal Code section 11160 provided that:

26 “(a) Any health practitioner . . .who, in his or her professional capacity or within
27 the scope of his or her employment, provides medical services for a physical condition to a
28 patient whom he or she knows or reasonably suspects is a person described as follows,

1 shall immediately make a report in accordance with subdivision (b):

2 "...

3 "(2) Any person suffering from any wound or other physical injury inflicted upon
4 the person where the injury is the result of assaultive or abusive conduct.

5 "(d) For the purposes of this section, assaultive or abusive conduct shall include
6 any of the following offenses:

7 "(8) Battery, in violation of Section 242."

8
9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Gross Negligence and/or Repeated Excessive Prescribing - Patient A.C.)**

11 17. Respondent is subject to disciplinary action under Section 2234,
12 subdivision (b), and/or Section 725 of the Code (repeated and clearly excessive prescribing of
13 medications) in that he was grossly negligent and repeatedly prescribed clearly excessive amounts
14 of medication in his care and treatment of patient A.C.² The circumstances are as follows:

15 18. Respondent obtained a Doctor of Medicine degree from the University of
16 Santo Tomas, Manila, Philippines, including a one year internship in 1967. He completed a
17 family practice residency in the Philippines in 1970. He completed a residency in Internal
18 Medicine and Family Practice in 1982 from Jewish Hospital and Medical Center, Brooklyn, New
19 York.

20 19. Respondent first saw Patient A.C. in November of 2003 at the San Antonio
21 Health Care Clinic. His notes state that A.C. complained of back pain and back spasm after
22 lifting "a heavy boxes" (sic). Respondent also noted a psychiatric history and that A.C. was "on
23 Neurontin 300mg, and Risperdal³." Examination findings included lumbar spasm with pressure
24 and tenderness at L1-S1, a negative straight-leg-raise exam and no neurological deficit.

25
26 2. Initials are used to identify the patients in this Accusation in order to protect their right
27 to privacy. The name of the patients will be disclosed to respondent pursuant to a request for
discovery.

28 3. Risperdal is the manufacturer's name for risperidone, a drug used to treat schizophrenia.

1 Respondent's diagnosis included fibromyocitis, myalgia/myocitis, lumbar spine sprain/strain,
2 psychosis and anxiety. He prescribed Bextra 10 mg, 120 tablets of Norco⁴, 100 tablets of
3 diazepam 10mg and advised A.C. to return to the clinic in one month. Respondent did not
4 document what prior treatments A.C. had undergone or what medications he may have used. A
5 form in respondent's file indicates A.C. was not taking any medication on the day of the first visit.
6 There was no psychological assessment or review of drug or alcohol history even though A.C.
7 told respondent that he was an alcoholic attending AA. Physical therapy was not offered.
8 Although respondent's records for A.C. refer to a prescription for an x-ray of the "L/S,"
9 respondent never obtained one.

10 20. At a follow up visit on December 23, 2003, respondent noted no significant
11 changes in his physical examination of A.C. He added diagnoses including "chronic anxiety
12 state," wrote that he gave a prescription for a lumbar spine x-ray and renewed the prescriptions
13 for Norco and diazepam at the same doses. Subsequent follow-up visits showed essentially the
14 same complaints of back pain and anxiety, minimal if any exam finding changes and primarily the
15 same pain diagnosis. Respondent continued to prescribe Norco. In March, 2004 he substituted
16 Xanax in place of Valium and added Soma. Vicodin ES⁵ was also prescribed at times at the same
17 time as Norco. On July 11, 2005, respondent made a new diagnosis of diabetes with peripheral
18 neuropathy but recorded nothing to support that diagnosis. On August 11, 2006, an office note
19 from staff was generated indicating patient called stating that he was going to detox then later
20 called to say disregard call. There was no follow-up by respondent. On October 27, 2006, a note
21 from staff stated patient claims pharmacy lost script for Xanax.

22 21. Respondent wrote multiple prescriptions for A.C. for Norco and for
23 Hydromet.⁶ This indicates excessive usage. For example, respondent prescribed 180 Norco
24

25 4. Norco is a manufacturer's name for a compound of 10 mg of hydrocodone and 325 mg
26 of acetaminophen per tablet.

27 5. A preparation of 7.5 mg of hydrocodone and 750 mg of acetaminophen per tablet.

28 6. Hydromet is a manufacturer's name for a cough syrup that contains hydrocodone.

1 tablets and allowed one refill at each of these office visits: July 11, 2005, August 8, 2005,
2 September 1, 2005, September 15, 2005, and October 13, 2005.

3 22. On or about December 13, 2006 A.C. died at the age of 46. The coroner
4 attributed his death to co-ingestion of alcohol and multiple prescription drugs.

5 23. Respondent's acts and/or omissions in the care and treatment of patient
6 A.C. as set forth above constitute a violation of Section 2234 subdivision (b) of the Code (gross
7 negligence) and/or Section 725 (excessive prescribing) as follows.

8 A. Respondent failed to obtain a history of prior treatments, including
9 medications or therapy tried. He did not elaborate on prior drug use or alcoholism. He did not
10 elaborate on prior history of depression or anxiety. All of these conditions may be relative
11 contradictions for prescribing high dose/long term opiates and benzodiazepines. The risk of abuse
12 or adverse outcome is high in these patients. This was ignored or not recognized by respondent.

13 B. Respondent failed to consider more conservative treatment options for what
14 was described as a chronic injury. Physical therapy was never discussed or offered. He did not
15 consider referral to a qualified specialist for alternative treatment options. Despite a reported
16 psychiatric history, respondent did not provide a comprehensive psychiatric evaluation, discuss
17 with the patient his psychiatric conditions or consider a psychiatric evaluation before putting A.C.
18 on high dose benzodiazepines and opiates. As a reference, Xanax tablet strength ranges from .25
19 to 2.0 mg and Valium strength ranges from 2 to 10 mg. Respondent chose to put and keep A.C.
20 on the highest strength tablets. There were minimal true objective examination findings such as
21 sensory deficiency or decrease in reflexes to support a long term diagnosis of radiculopathy.
22 There were minimal examination findings to support a diagnosis of peripheral neuropathy.
23 Respondent has never obtained an x-ray or magnetic resonance imaging study to support his
24 diagnosis or to rule out significant conditions. He prescribed an opiate-based cough medication
25 on a long term basis to a patient without adequate work-up.

26 C. Respondent failed to review his treatment plan for both appropriateness and
27 efficacy. Even if he did initiate the wrong treatment plan on a questionable diagnosis, he had
28 ample opportunities to re-assess.

1 D. A non-fasting blood test drawn at A.C.'s first visit on November 25, 2003,
2 showed slightly elevated glucose. Respondent diagnosed diabetes on the basis of this result, but
3 did not conduct more conclusive tests and did not treat the disease he had diagnosed.

4
5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Gross Negligence and/or Excessive Prescribing - Patient A.D.)**

7 24. Respondent is subject to disciplinary action under Section 2234,
8 subdivision (b), and/or Section 725 of the Code (repeated and clearly excessive prescribing of
9 medications) in that he was grossly negligent and repeatedly prescribed clearly excessive amounts
10 of medication in his care and treatment of patient A.D. The circumstances are as follows:

11 25. Respondent treated A.D. for a variety of pain conditions from December 1,
12 1998, through January 5, 2006. During this period, his primary treatment was high-dose opiate
13 medication.

14 26. At his first visit with A.D., respondent recorded diagnoses of migraine
15 headaches and cluster headaches. At a September 10, 2007, interview with Board personnel,
16 respondent stated that he made the diagnosis of migraines because A.D. told him that another
17 physician had done so. When an interviewer protested that "all patients say that" respondent
18 claimed to remember many other items of medical history that were not documented in
19 respondent's records.

20 27. In April 2000 respondent diagnosed thoracic fibromyalgia because A.D.
21 had spasm and tenderness in her back. When asked, he could not distinguish between myalgia
22 and fibromyalgia.

23 28. In 1999 respondent concluded that A.D. was getting dependent on the
24 medication he had prescribed and that she needed help such as drug detoxification. At the 2007
25 interview respondent stated that he did not write down this conclusion because A.D. begged him
26 not to write it in the chart. In spite of his conclusion, he continued to prescribe the same
27 medications. At the interview respondent said he told A.D. she was endangering her and her
28 children's lives. He further stated that he did not document this conversation or stop writing

1 prescriptions for the medications because he was "afraid to lose her" because of his "cost of
2 living."

3 29. In February 2002, respondent saw A.D. for a bruise on her arm caused in an
4 altercation with her boyfriend. He did not report a domestic violence event. He also did not
5 document it in his records because she asked him not to write it down.

6 30. In August of 2003, A.D. complained of mood swings and stated that a
7 psychiatrist diagnosed her with bipolar illness and had prescribed Paxil. On the basis of this
8 statement respondent also prescribed Paxil, but did not document the alleged psychiatrist's
9 identity or verify A.D.'s statement in any way.

10 31. In or about September 2003, A.D. moved to the State of Kentucky.
11 Between September 4, 2003, and January 5, 2006, respondent enabled her to obtain opiate pain
12 medications by telephoning pharmacies in Kentucky and ordering refills. He charged her for this
13 service. He did not see A.D. in person and examine her during this entire period.

14 32. Respondent's acts and/or omissions in the care and treatment of patient
15 A.D. as set forth above constitute a violation of Section 2234 subdivision (b) of the Code (gross
16 negligence) and/or Section 725 (excessive prescribing) as follows.

17 A. Respondent failed to obtain a history of prior treatments, including
18 medications or therapy tried. He did not document proper drug use or alcoholism. He did not
19 elaborate on proper history of depression, anxiety or other psychiatric history. Past medical
20 history was not documented. His physical examination and diagnosis did not match the
21 explanation he gave for providing opiates in the interview. His knowledge base is poor with
22 regards to discussing chronic pain conditions. Additionally, it is apparent that he does not clearly
23 understand the definitions related to addiction and iatrogenic opiate dependency. His basis for
24 treatment long term with high dose opiates was wholly inadequate based on medical records
25 provided and his explanations in the interview. He did not establish criteria for diagnosing
26 intractable pain in A.D. as defined by Business and Professions Code section 2241.5.

27 B. Respondent failed to consider more conservative or alternative treatment
28 options. Physical therapy was never discussed in his records. He did not consider referral to a

1 qualified specialist for alternative treatment options. He did not provide a comprehensive
2 psychiatric evaluation, discuss with the patient her psychiatric condition or facilitate referral for
3 psychiatric evaluation before placing/continuing A.D. on opiates and later multiple
4 benzodiazepines in addition to Paxil. He never obtained an x-ray or MRI to support his diagnosis
5 or rule out significant conditions.

6 C. Medical records were scant. History and physical examination did not
7 support the diagnosis. Nevertheless, prescriptions were renewed, including high-dose opiates and
8 benzodiazepines. There were multiple warning signs of dependency and/or abuse including early
9 refills of prescriptions, as well as statement by both A.D. and respondent that A.D. was becoming
10 dependent on the opiate medications. These critical statements were not documented.
11 Respondent further did not see A.D. face-to-face for a period of over two years and as such there
12 are no documented treatment records. The community standard of care in prescribing opiate
13 medication is typically to see the patient face-to-face every one to three months. Usually this is
14 every one to two months and on rare occasion may be up to four months.

15 16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Violation of Drug Laws)**

18 33. Respondent is subject to disciplinary action under Sections 2238 and 2242
19 of the Code in that he prescribed dangerous drugs and controlled substances without conducting
20 or documenting an appropriate prior examination or appropriate follow-up tests, or substantiating
21 a medical indication for the drugs prescribed to patients. The circumstances are as follows:

22 34. The facts and allegations set forth in the First and Second Causes for
23 Discipline above are incorporated here by reference.

24 25 **FOURTH CAUSE FOR DISCIPLINE**

26 **(Prescribing Without Appropriate Prior Examination and Medical Indication)**

27 35. Respondent is subject to disciplinary action under Sections 2238 and 2242
28 of the Code in that he prescribed dangerous drugs and controlled substances without conducting

1 or documenting an appropriate prior examination or appropriate follow-up tests, or substantiating
2 a medical indication for the drugs prescribed to patients The circumstances are as follows:

3 36. The facts and allegations set forth in the First and Second Causes for
4 Discipline above are incorporated here by reference.

5
6 **FIFTH CAUSE FOR DISCIPLINE**

7 **(Prescribing to an Addict - Patient A.C.)**

8 37. Respondent is subject to disciplinary action under Section 2241 of the Code
9 and Health and Safety Code sections 11153 and 11156 in that he prescribed controlled substances
10 to an addict. The circumstances are as follows:

11 38. The facts and allegations set forth in the First Cause for Discipline above
12 are incorporated here by reference.

13 39. Respondent admitted to complainant's investigator that at the initial office
14 visit respondent believed A.C. was addicted to hydrocodone.

15
16 **SIXTH CAUSE FOR DISCIPLINE**

17 **(Repeated Negligent Acts)**

18 40. Respondent is subject to disciplinary action under Section 2234,
19 subdivision (c), in that he committed repeated acts of negligence in the care, treatment, and
20 management of Patients A.C. and A.D. The circumstances are as follows:

21 41. The facts and allegations set forth in the First and Second Causes for
22 Discipline above are incorporated here by reference.

23
24 **SEVENTH CAUSE FOR DISCIPLINE**

25 **(Failure to Maintain Adequate and Accurate Medical Records)**

26 42. Respondent is subject to disciplinary action under Section 2266 of the Code
27 in that he failed to maintain adequate and accurate records relating to his care and treatment of
28 patients. The circumstances are as follows:

43. The facts and allegations set forth in the First and Second Causes for Discipline above are incorporated here by reference.

44. On or about February 12, 2002, A.D. complained of a large hematoma on her arm and informed respondent that her boyfriend had injured her in this way in an altercation. He did not note the origin of the injury in his records.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonest or Corrupt Acts)

45. Respondent is subject to disciplinary action under Section 2234, subdivision (e), in that he committed acts involving dishonesty or corruption which are substantially related to the qualifications, functions, or duties of a physician and surgeon. The circumstances are as follows:

46. Respondent sent incomplete medical records concerning A.D. to the authorities in Kentucky. He omitted a part of the records because by his self-admission he thought that he would get in trouble.

NINTH CAUSE FOR DISCIPLINE

(Incompetence)

47. Respondent is subject to disciplinary action under Section 2234, subdivision (d), of the Code (incompetence) in that he lacks clinical knowledge or ability. The circumstances are as follows:

48. The facts and allegations set forth in the First and Second Causes for Discipline above are incorporated here by reference.

TENTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

49. Respondent is subject to disciplinary action under Section 2234 of the Code (unprofessional conduct). The circumstances are as follows:

1 50. On or about February 12, 2002, A.D. complained of a large hematoma on
2 her arm and informed respondent that her boyfriend had injured her in this way in an altercation.
3 Respondent failed to inform the proper authorities about the circumstances of this injury as
4 required by Penal Code sections 11160 and 11161.

5

6

PRAYER

7

WHEREFORE, complainant requests that a hearing be held on the matters herein
8 alleged, and that following the hearing, the Medical Board of California issue a decision:

9

1. Revoking or suspending Physician's and Surgeon's Certificate Number
10 A38326, issued to Carlos Estiandan, M.D.;

11

2. Revoking, suspending or denying approval of respondent's authority to
12 supervise physician assistants, pursuant to Section 3527 of the Code;

13

3. Ordering respondent, if placed on probation, to pay the Board the costs of
14 probation monitoring; and,

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4. Taking such other and further action as deemed necessary and proper.

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17 DATED: February 10, 2009

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BARBARA JOHNSTON
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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